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CENTRAL FAX CENTER**JUL 23 2008****References Cited [Referenced By]****U.S. Patent Documents**

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|--------------|-------------------|------------------|---------|
| 5,426,281 | June 20, 1995 | Abecassis | 235/379 |
| 5,703,344 | December 30, 1997 | Bezy, et al. | 235/379 |
| 6,192,142 | February 20, 2001 | Pare, Jr., et al | 382/115 |
| 6,592,029 | July 15, 2003 | Brikho | 235/379 |
| 6,647,376 | November 11, 2003 | Farrar | 705/45 |
| 2006/0020546 | January 26, 2006 | Wilkinson | 705/43 |

Description**FIELD OF INVENTION**

This invention relates to the field of personal identification in financial transactions. Specifically, this invention is directed towards a system and method of identification of a payor of a negotiable instrument by means of comparing the payor's government issued photographic identification card with an exact image of same that has previously been superimposed by the payor's financial institution the negotiable instrument being presented by said payor

BACKGROUND

The present invention relates to accurate identification at the point of transaction of the payor presenting a check to a merchant. Merchants and other payees have long been concerned about the identity of the payor and the sufficiency of funds when accepting drafts, checks, or check-like instruments for the exchange of goods and services. Each year, approximately five billion dollars is lost by merchants in the

United States alone due to uncollectible drafts. Of this large sum, 41 % is due to closed accounts or fraudulent presentation.

It is further an objective of this invention to provide a system and method that eliminates the need for the payor to incur any delay in acceptance of the negotiable instrument. This is accomplished by being able to rapidly verifying the user's identity with a manual system simply by comparing the signature and description on the payor's government issued photographic identification card, with an image of that same government issued identification card that is superimposed on the payor's negotiable instrument.

Many systems have been developed to minimize the risk to the merchant that the draft will not be honored. The **Bezy, et al.** patent #5,703,344 is such a system. However, that patent does not have an identification method of the payor as part of its system. Instead, it is a network connection system from the merchant to the payor bank to confirm the sufficiency of the funds to satisfy the transaction. Likewise, the **Abecassis** patent #5,426,281 is a transaction protection system for ensuring the sufficiency of funds to cover drafts for purchases, and does not include a method of payor identification so as to prevent fraudulent presentation.

Of the three references above to prior art, only the **Pare, Jr., et al.** patent #6,192,142 is similar to this application in that it is also a method of identification of the payor as a means for protecting the merchant when accepting payment for goods sold. However, the **Pare** patent's use of biometric samples is a very intricate method and system that has the disadvantage of being impractical to implement on a wide scale basis. This is so because it requires a system of registration and central storing of biometric samples (fingerprints, iris image, etc ...) and then a method for the payee merchant's identification of a payor by comparison of the payor's biometric parameters with those that are stored.

It is of interest that merchants have used extensively the **Bezy** and the **Abecassis** patents to verify sufficiency of payor funds in conjunction with the widespread use of credit and debit cards. There has not been a comparable use of the **Bezy** and **Abecassis** patents to protect merchants and financial institutions in

the negotiation of checks and other drafts. Likewise, the **Pare** biometric patent does not appear to have the same practical potential for use with checks and other drafts that it might have with the use of credit cards. For example, many more financial institutions are issuing checks than institutions issuing credit and debit cards. As a result, the networking system for checks and other drafts is necessarily more complicated than a comparable system for credit cards. Consequently, these prior art patents have very little, if any, utility when it comes to their application to negotiable instrument transactions.

Admittedly, because it is a very accurate method for identification of the payor, the **Pare** patent provides protection against forgery. On the other hand, due to reasons discussed above, that patent is also the most difficult system and method to implement. Consequently, the **Pare** patent's allegations regarding it being practical, convenient, and easy to use, overlook considerations of cost effectiveness. For example, the practicality of the implementation of the **Pare** system and method is problematic when it comes to negotiable instruments. This is due to its complexity in requiring: (1) biometric samples to be taken and centrally stored; (2) a network between this data and the merchant banks; and then, (3) a method to identify the payor by comparing the biometric samples with the biometric characteristics of the payor. All of this further requires optical reading devices at the point-of-sale with the merchant, along with the electronic equipment to communicate with and transfer this data to a central data base for verification.

On the other hand, the method of payor identification at the point-of- transaction of this invention is more advantageous in that it is more affordable than the prior art, and at the same time, provides a flexible system that does not require the creation of a secure network for electronic transactions. In this regard, this invention requires no optical reading device (or any other mechanical equipment for that matter) at the point of negotiating the draft. Further, it eliminates the need for the payor to provide a biometric sample to the payor financial institutions.

Pare claims an advantage due to convenience to the payees (merchants) and financial institutions to make financial transactions. However, as explained above, to set up that system it is not convenient or

uncomplicated. On the other hand, this claimed invention (the **McQuary** application) of payor identification is both: (1) convenient and simple to perform; but also, (2) much less costly or intricate to set up than the prior art. Specifically, the substance of the system involved in this invention applied for is to produce a negotiable instrument with an image of a government issued photographic identification of the payor superimposed on said negotiable instrument. This is clearly less costly to the financial institutions than the optical readers and other equipment needed for the system network used to implement the **Pare** patent.

None of the above patents would provide grounds for rejection of this patent application on the basis of obviousness. Although **Wilkinson** (U.S. Patent No. 5,863,074) has a similar purpose as the **McQuary** application here, it is based on a computerized system and method to enter, edit, store and retrieve payee identification data. **McQuary** is a much simpler system and method which does not require a computer or even a database. Instead the data in **McQuary** is only that which is contained in the payor's government issued identification card which is superimposed as an identical copy on the payor's check. **Wilkinson** makes no mention of copying the identification card with its picture to the negotiable instrument. Instead, it only addresses the transfer of identifying data to the negotiable instrument. Again, the distinguishing factor of these two systems is that no database or computer is necessary to implement the **McQuary** patent. Since it is such a vastly cheaper and simpler system its primary application is perfectly suited for the small merchant that can not afford to implement the **Wilkinson** patent. The latter is obviously designed for the larger retail outlets, which have computer access to the database. At the same time, **McQuary** is suitable for both the large and small retailer. The major advantage of **McQuary** (besides is ease of implementation and its minimal cost of producing the negotiable instruments) is that this patent costs the retailer nothing. Still it confers the retailer substantially all the benefits of fraud prevention provided by the prior art. On the other hand, **Wilkinson** cannot be implemented without costs to the retailer. It is important to note that **Wilkinson** was not written in language broad enough to include the **McQuary** system and method. As a result, it was not obvious from **Wilkinson** that the computerized system could be done away with and the data needed to prevent fraudulent negotiation be placed on the check itself in the form of an exact copy of a government identification card that is not easily tampered with.

Likewise, in **Brikho** (U.S. 2004/0026500 A1) (which only claims a method, although the abstract refers to both a system and a method) requires a "computer readable and writeable media (that) includes a program operating platform and a software program loaded into the operating platform". **McQuary**, on the

other hand, requires no computers. Admittedly, Brikho addresses scanning into the database the identification data from the "customer's drivers' license". But again, exactly as in Wilkinson, the Brikho patent requires a computerized data base. Therefore, the prior art not does not make the system/apparatus of putting the data on the check obvious. Likewise, the process/method of the merchant's verifying the data without the use of a computerized database is not apparent from this prior art. The significance of McQuary is that the computerized data- base is being done away with and substituted with the governmental database whose information is reproduced on the check. Because the reproduced drivers' license can be verified by the actual drivers' license of the payor, the McQuary patent is stunningly simple, but at the same time highly reliable and not very susceptible to fraud. In order to do so, a fraudulent check writer would have to obtain the payor's check, completely forge the payor's driver's license, and finally, imprint the license on the checks. Although not impossible, the McQuary system and method make fraud that much more difficult, all without a computerized database and at no expense to the merchant. Although Brikho talks of scanning the driver's license into the database, and Wilkinson incorporates transferring this information from the database to the check, it is not obvious that both of these methods can be greatly simplified and made more cost effective by imprinting and exact copy of the driver's license on the check. If it were that obvious, surely there would have been some discussion in the background or summary of either invention. However, anything as simple and cost effective as the McQuary system and method has not been mentioned in any prior patent material.

Farrar (U.S. Patent No. 6,647,376) adds nothing to obviousness of the McQuary patent as it only provides for using a payor's drivers' license at the point-of-sale to verify financial institution information. This is certainly not the same as matching the actual driver's license with an identical reproduction of same on the negotiable instrument being presented by the payor at the point-of-sale. Farrar has to do only with checking the characteristics on the driver's license with those of the payor. Unlike McQuary, there was no ability to also verify the authenticity of the check with the drivers' license

itself. Therefore, McQuary is a greatly simplified three-way verification between the payor's drivers' license, the check being presented, and the payor; all without a complicated system of computers, biometric data or voluminous databases. This simply was not obvious from the totality of the above cases.

As a result, the objectives to provide rapid, accurate and cost effective identification of payor so as to prevent fraudulent presentation of a negotiable instrument are satisfied by this claimed invention, but not by any of the prior art.